

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jackie Manginelli	Team: Squad #10	CCRB Case #: 202008249	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 11:30 PM	Location of Incident: South and middle of Union Square Park.	Precinct: 13	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Thu, 12/17/2020 10:15 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 12/17/2020 10:15 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. INS Michele Irizarry	00000	915113	PBMS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. CPT Tommy Keung	00000	942001	013 PCT
2. POM Vincent Bieniek	10679	965951	013 PCT
3. POM Edward Griffin	05091	962449	013 PCT
4. POM Joseph Cosolito	18282	958441	013 PCT
5. SGT Jocelyn Peralta	01767	930927	013 PCT

Officer(s)	Allegation	Investigator Recommendation
A.INS Michele Irizarry	Force: Inspector Michele Irizarry used physical force against § 87(2)(b)	
B.INS Michele Irizarry	Discourtesy: Inspector Michele Irizarry spoke discourteously to § 87(2)(b)	

Case Summary

On December 11, 2020, § 87(2)(b) made the following complaint with the CCRB over the phone.

On May 30, 2020, at approximately 11:30 p.m., in the vicinity of the South of Union Square Park near 14th Street in Manhattan, § 87(2)(b) was going to take the train home. While inside of Union Square Park she observed as a group of protesters interact with police officers. The officers told the protesters to get out of the park.

Inspector Michele Irizarry, of Patrol Borough Manhattan South, approached § 87(2)(b) allegedly picked her up by both of her arms, pushed her back into a fence, and told her to get out of the park (**Allegation A—Force: Physical force: Pushed: § 87(2)(g)**). She said, “When I tell you to get out of the park, get out of the fucking park” (**Allegation B—Discourtesy: Word: § 87(2)(g)**). § 87(2)(b) left the park.

Body-worn camera footage was obtained for CCRB Case Number 202004899 that was related to this case. It included body-worn camera footage for PO Vincent Bieniek, PO Joseph Cosolito, Sergeant Jocelyn Peralta, and PO Edward Griffin (**Board Reviews 02-11**). Handheld and pole TARU footage was requested, however, footage provided was unrelated to this complaint (**Board Review 12**). No additional footage was recovered upon a follow-up request (**Board Review 13**). There was no other video footage of this incident.

Since this incident, Inspector Irizarry has been promoted to Deputy Chief Irizarry for the Training Bureau.

Findings and Recommendations

Allegation A— Force: Inspector Michele Irizarry used physical force against § 87(2)(b)

Allegation B – Discourtesy: Inspector Michele Irizarry spoke discourteously to § 87(2)(b)

On December 11, 2020, § 87(2)(b) provided a statement to the CCRB over the phone (**Board Review 01**).

§ 87(2)(b) stated that she was going to take the train home. She saw siren lights, a small trashcan fire near the entrance to the park towards the back of the steps near a fence, and protesters in Union Square. She did not know who the organizer of the protest was. § 87(2)(b) saw two rows of individuals near the front steps of the park. There was a line of police officers, all in uniform, standing shoulder to shoulder in a single file line in front of a group of protesters. The protesters were shouting things at the officers very close, almost-eye-to-eye with the officers. There was one person who seemed to be the leader of the group who would get very close to the officers’ faces and shout things at the officers. There were police cars everywhere with their sirens on. § 87(2)(b) stood to the side of the group and was not within the group of protesters. The protesters were very aggressive, and the officers were standing still and not saying anything. At some point, someone pushed someone else. § 87(2)(b) thought the protesters started pushing the officers. Officers started bringing protesters to the ground and arresting them. (The investigation determined that this allegation of bringing protesters to the ground was a duplicate allegation of CCRB Case Number 202004899). A man was brought to the ground and a woman was screaming, “What are you doing to my boyfriend? Get your hands off my boyfriend!” (The investigation determined that this allegation of bringing this individual to the ground was a duplicate allegation of CCRB Case

Number 202005166). § 87(2)(b) backed up. The officers told the protesters to get out of the park. An officer, identified by the investigation as Inspector Irizarry, approached § 87(2)(b) picked her up by both of her arms, pushed her back into a fence, and said, “When I tell you to get out of the park, get out of the fucking park.” Officers continued to tell protesters that the park was closed. § 87(2)(b) did not want to leave the park because she was concerned about the other protesters who were in the park who were getting pushed to the ground. After she was pushed into the fence, § 87(2)(b) decided to leave the park. § 87(2)(b) did not describe any injuries.

PO Cosotilo’s body-worn camera footage captures this portion of the incident (**Board Reviews 04, 08**). At 01:35, a number of protesters are being apprehended by officers at the top of the steps of Union Square Park. Additional officers are seen directing bystanders to leave the park. At 01:45, § 87(2)(b) a short white woman with blond hair in a ponytail, is seen wearing a white dress with red flowers and no face mask approximately five to ten feet away from officers arresting individuals. At 01:48, Inspector Irizarry is seen, wearing a uniform with a white shirt, approach § 87(2)(b) and push her lightly on the back in the direction of the stairs behind her. § 87(2)(b) begins walking towards the stairs behind her.

The first part of PO Bieniek’s body-worn camera footage captures this portion of the incident (**Board Reviews 02, 07**). At 00:55, PO Bieniek walks up the stairs of Union Square Park and past a trash fire on his right-hand side. He walks up the stairs with other officers where there is another trash fire directly in front of him. At 01:25, officers are heard telling people to leave the park. At 01:36, § 87(2)(b) is seen at the top of the steps. Inspector Irizarry quickly approaches her and at 01:39, grabs both her arms and moves her back forcing her to walk away from the area. § 87(2)(b) and Inspector Irizarry exit the camera frame.

§ 87(2)(g)

According to Patrol Guide Procedure 221-01 (**Board Review 14**), when appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain voluntary compliance from a subject to reduce or eliminate the necessity to use force. In determining whether the use of force is reasonable, members of service should consider the following:

- A. The nature and severity of the crime or circumstances
- B. Actions taken by the subject
- C. The duration of the action
- D. The immediacy of the perceived threat or harm to the subject, members of service, and/or bystanders
- E. Whether the subject is actively resisting custody
- F. Whether the subject is attempting to evade arrest by flight
- G. Number of subjects in comparison to the number of MOS
- H. Size, age, and condition of the subject in comparison to the MOS
- I. Subject’s violent history, if known
- J. Presence of a hostile crowd or agitators
- K. Subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence

§ 87(2)(g)

§ 87(2)(g)

According to DCT Case Law 2017-17276, language which would ordinarily be inappropriate in dealing with civilians may be excused in the course of a violent confrontation (**Board Review 15**).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the second complaint to which § 87(2)(b) has been a subject (**Board Review 16**).
 - § 87(2)(g), § 87(2)(b)
- This is the first CCRB complaint for which Inspector Irizarry has been a subject.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- On January 26, 2021, a request was sent to the Office of the Comptroller regarding any Notice of Claim related to this case. No Notice of Claim was located regarding this case (**Board Review 17**).
- According to the Office of Court Administration (OCA), § 87(2)(b) does not have a history of convictions in New York (**Board Review 18**).

Squad No.: 10

Investigator:	<u>Jackie Manginelli</u>	<u>Inv. Jackie Manginelli</u>	<u>04/09/2021</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Eric Rigie</u>	<u>IM Eric Rigie</u>	<u>4/14/2021</u>
	Signature	Print Title & Name	Date

Reviewer: _____

CCRB Case # 202008249

Signature

Print Title & Name

Date